



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss

COMMISSION ADJUDICATORY
DOCKET NO. 05-0004

IN THE MATTER OF PETER ARLOS

DISPOSITION AGREEMENT

The State Ethics Commission and Peter Arlos enter into this Disposition Agreement pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented-to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, § 4(j).

On June 15, 2004, the Commission initiated, pursuant to G.L. c. 268B, § 4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A by Arlos. The Commission has concluded its inquiry and, on April 7, 2005, found reasonable cause to believe that Arlos violated G.L. c. 268A, §13.

The Commission and Arlos now agree to the following findings of fact and conclusions of law.

Findings of Fact

1. Arlos was the elected Berkshire County treasurer from January 2, 1985 through December 31, 2002.
2. The Berkshire County treasurer served as the treasurer/custodian on the Berkshire County Retirement Board ("County Retirement Board").¹
3. As County Retirement Board treasurer/custodian, Arlos had voting rights as a County Retirement Board member.
4. On June 21, 2000, at an open public meeting, the County Retirement Board approved by a 3-2 vote, a 3% increase of the wages for the treasurer-custodian. Arlos voted with the majority.
5. The 3% raise resulted in Arlos receiving a total of \$1,200 in additional compensation during the period of FY01 through the end of FY03.
6. Arlos believed he was acting entirely as a Berkshire County Retirement Board member when he voted on June 21, 2000, and that § 13 of G.L. ch. 268A did not apply to Berkshire County Retirement Board members. He based his belief on the Supreme Judicial Court decision in *Massachusetts Bay Transportation Authority Retirement Board v. State Ethics Commission*, 414 Mass. 582 (1993), which found that the MBTA Retirement Board was outside the State Ethics Commission's jurisdiction. Arlos believed that the salary increase was not paid with public funds. The State Ethics Commission disagrees with Arlos' interpretation and finds that the Berkshire County Retirement Board was a county agency, its members subject to c. 268A and that Arlos's salary increase was paid with public monies.
7. Arlos cooperated fully with the Commission's investigation of this matter.

Conclusions of Law

8. Section 13 of G.L. c. 268A prohibits a county employee from participating² as such an employee in a particular matter³ in which, to his knowledge, he has a financial interest.⁴

9. As the elected Berkshire County treasurer from January 2, 1985 through June 30, 2000, Arlos was a county employee within the meaning of G.L. c. 268A, § 1.

10. The June 21, 2000 decision by the County Retirement Board as to whether to increase Arlos' treasurer-custodian salary by 3% was a particular matter.

11. Arlos had a financial interest in having his treasurer-custodian salary increased by 3%.

12. Arlos was a county employee at the time he participated as a member of the Berkshire County Retirement Board in the particular matter of the June 21, 2000 vote.

13. Arlos knew of his financial interest in the particular matter when he participated in the vote to increase the treasurer-custodian's salary.

14. Accordingly, the State Ethics Commission finds that a Berkshire County Retirement Board member voting to increase his treasurer-custodian's salary by 3%, is a violation of § 13.

Resolution

In view of the foregoing violation of G.L. c. 268A by Arlos, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Arlos:

- (1) that Arlos pay to the Commission the sum of \$1,000 as a civil penalty for violating G.L. c. 268A, § 13;
- (2) that Arlos pay to Public Employee Retirement Administration Commission (PERAC) the sum of \$1,200 as a civil forfeiture reflecting that portion of his compensation attributable to the § 13 violation; and
- (3) that Arlos waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: June 21, 2006

¹ G.L. c. 32, § 23(2).

² “Participate” means to participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, § 1(j).

³ “Particular matter” means any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, § 1(k).

⁴ “Financial interest” means any economic interest of a particular individual that is not shared with a substantial segment of the population of the municipality. See *Graham v. McGrail*, 370 Mass. 133 (1976). This definition has embraced private interests, no matter how small, which are direct, immediate or reasonably foreseeable. See *EC-COI-84-98*. The interest can be affected in either a positive or negative way. *EC-COI-84-96*.